IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION	: : : : : : : : : : :	No. 2:12-md-02323-AB MDL No. 2323 Hon. Anita B. Brody
THIS DOCUMENT RELATES TO: ALL ACTIONS		

BAP ADMINISTRATOR STATUS REPORT NO. 17

1.   The Garretson Resolution Group, Inc. d/b/a Epiq Mass Tort serves as the Baseline Assessment Program ("BAP") Administrator ("the BAP Administrator") for the Settlement program in the above-captioned action.[1] Since its appointment by the Court to serve in this role, the BAP Administrator has worked diligently with Class Counsel and Counsel for the NFL Parties ("the Parties") to meet its responsibilities under the Settlement Agreement. The BAP Administrator submits this Status Report to provide an update to the Court on the status of the BAP Administrator's work implementing the BAP.

Norming Agreement Activities

2.   Since the last Status Report, the BAP Administrator has worked closely with the Claims Administrator, the Parties, and the Special Masters to implement the modifications to the NFL Concussion Settlement Agreement pursuant to Section 6.6 ("the Norming Agreement"), which was approved by the Court on March 4, 2022. These activities are described below.

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[1] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Settlement Agreement.

3.   The Court's order of March 4, 2022, approving the Norming Agreement required prospective BAP results to be finalized using the New Method, including results for Retired NFL Football Players whose BAP clinical neuropsychology reports had already been submitted to the BAP Administrator using the prior method but whose BAP results had not been finalized by March 4, 2022. To that end, the BAP Administrator has provided BAP clinical neuropsychology reports for 826 Retired NFL Football Players to the Claims Administrator to facilitate the application of the New Method under the supervision of the Appeals Advisory Panel Consultants. The Claims Administrator has shared the results of these efforts with the BAP Administrator, who has in turn has shared those results with Retired NFL Football Players who have attended both BAP appointments and whose BAP results are now final. In other cases, including situations where application of the New Method has resulted in a potential change to the Retired NFL Football Player's BAP diagnosis level, the BAP Administrator is continuing to follow up with the Qualified BAP Providers who examined the players to request updated BAP reports based on the New Method results.

4.   For Retired NFL Football Players with future BAP clinical neuropsychology appointments, or those who have attended BAP clinical neuropsychology appointments but whose reports have not yet been submitted, the BAP Administrator is working closely with Qualified BAP Provider clinical neuropsychologists to have them apply the New Method prior to their initial report submissions. To that end, the Claims Administrator, under the supervision of the experts of the Appeals Advisory Panel and Appeals Advisory Panel Consultants, has developed functionality to apply the New Method automatically to BAP clinical neuropsychology test results. All Qualified BAP Provider clinical neuropsychologists are being trained on this functionality as they schedule new appointments, and all are required to use this functionality when reporting the results of BAP exams.

5.   Since April 2022, the Claims Administrator notified 2,739 Retired NFL Football Players of their eligibility for free Expanded BAP examinations. As of January 9, 2023, 854 Retired NFL Football Players or their attorneys have contacted the BAP Administrator to request Expanded BAP examinations. Of those 854 requesting Expanded BAP examinations, the BAP Administrator has secured initial appointment dates from Qualified BAP Providers for 725 Retired NFL Football Players (85% of those who have requested Expanded BAP examinations). Of the 725 who have had initial appointment dates secured, the average time from the player's initial request to the date of the initial appointment is 105 days.

6.   For those 129 Retired NFL Football Players who have requested Expanded BAP examinations but have not yet had an initial appointment secured, the average time since their request is 61 days. The BAP Administrator is working diligently with local Qualified BAP Providers to ensure timely Expanded BAP examinations for all interested Retired NFL Football Players. Additionally, the BAP Administrator is working with Qualified BAP Providers willing to travel, in order to offer additional capacity in cities with especially high demand.

Maintaining the Qualified BAP Provider Network

7.   In implementing the BAP, the BAP Administrator is responsible for maintaining a network of Qualified BAP Providers to administer the specified baseline assessment examinations under the BAP and authorized medical services under the BAP Supplemental Benefits program. As of January 9, 2023, the BAP Administrator has contracted with 276 active Qualified BAP Providers in fifty metropolitan areas across the United States. The BAP Administrator continues to work to enroll Qualified BAP Providers to expand the BAP network wherever necessary to ensure sufficient depth of coverage and improve program efficiencies, including in cities where demand is the most affected by the availability of Expanded BAP Examinations. For cities without sufficient contracted Qualified BAP Providers to fully meet demand, the BAP Administrator

continues to seek alternate arrangements to ensure timely appointments for Retired NFL Football Players.

Baseline Assessment Examinations Scheduled and Attended to Date

8.   The BAP offers a two-part baseline assessment examination, consisting of a clinical neuropsychology appointment lasting an average of six to eight hours and a basic neurological examination lasting approximately one hour.   The BAP Administrator's scheduling process is intended to ensure that Retired NFL Football Players are scheduled at a provider location, date, and time acceptable and convenient to them.   Typically, the BAP Administrator attempts to schedule the clinical neuropsychology appointment so that it occurs first, and far enough in advance of the neurology appointment that the clinical neuropsychologist's report is available for review during the neurology appointment.

9.   As of January 9, 2023, the Claims Administrator has determined that 12,838 Retired NFL Football Players are eligible to participate in the BAP.   Of these 12,838 individuals, the BAP Administrator has received requests to schedule baseline assessment examinations from 7,621 Retired NFL Football Players directly or through their attorneys.   This represents 59.4% of BAP-eligible Retired NFL Football Players.

10.   Of the 7,621 Retired NFL Football Players who have requested appointments, the BAP Administrator has offered one or more appointments with Qualified BAP Providers to 7,591 of them (99.6%).   Retired NFL Football Players who have requested appointments have waited a median time of 15 days until the BAP Administrator secured and offered a neuropsychology appointment (consisting of a specific date, time, and location) from a Qualified BAP Provider neuropsychologist.   To ensure the neuropsychology appointment takes place before the neurology appointment, the BAP Administrator seeks to confirm with the Retired NFL Football Player or his

attorney that the Retired NFL Football Player accepts the offered neuropsychology appointment before securing a neurology appointment. As a result of these activities, the median time between the initial offer of a neuropsychology appointment and the initial offer of a neurology appointment is 71 days. Median time from the initial request until the actual neuropsychology appointment is 115 days; the median time from request until the actual neurology appointment is 198 days. Table 1 summarizes wait times as of January 9, 2023.

Table 1. Appointment Scheduling Wait Times

Metric	Median in Days
Time from request to offered neuropsychology appointment	15
Time from offered neuropsychology appointment to offered neurology appointment	71
Time from request to neuropsychology appointment date	115
Time from request to neurology appointment date	198

11.   As of January 9, 2023, 6,724 Retired NFL Football Players (88.2% of those who have requested appointments) have attended a total of 14,304 appointments. This number consists of 6,211 Retired NFL Football Players (81.5%) who have attended two or more[2] appointments and 513 Retired NFL Football Players (6.7%) who have attended one appointment.

12.   Of the 7,591 Retired NFL Football Players for whom the BAP Administrator has scheduled or offered one or more appointments, 6,778 (88.9% of those who have requested appointments) currently have one or more appointments scheduled (including appointments that have already taken place). Of the 6,778 Retired NFL Football Players with scheduled appointments, 6,260 (82.1% of all who have requested) have been scheduled for both neuropsychology and neurology appointments, and 519 (6.7% of all who have requested) have

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[2] Certain Retired NFL Football Players have attended more than two appointments because they and/or the Qualified BAP Providers have requested to break up the clinical neuropsychology appointments, which the BAP Administrator has accommodated.

been scheduled for one appointment. For the latter group, the BAP Administrator continues to work to promptly schedule these Retired NFL Football Players' second appointments.

13.   Of the 7,591 Retired NFL Football Players for whom the BAP Administrator has scheduled or offered one or more appointments, 813 have had at least one appointment scheduled or offered to them in the past but have not attended any appointments and do not currently have any upcoming appointments scheduled. Of those 813 Retired NFL Football Players, 103 have had their requests closed due to lack of interest (after numerous attempts by the BAP Administrator to schedule appointments on their behalf), while 710 are still active in the scheduling process. These 710 Retired NFL Football Players have had a total of 3,739 rejected, cancelled, or missed appointments (an average of 5.3 each). Table 2 breaks down the reasons and sources of those cancellations.

Table 2. Cancellation Reasons – Players with No Active Appointments

Cancellation Reason	Source[3]		
	Player	Provider	BAP Administrator
Confirmed, then Cancelled	9.8%	5.9%	0.6%
Rejected or Withdrawn	47.3%	26.5%	1.9%
Missed	8.0%	0.0%	0.0%

14.   More than half of these Retired NFL Football Players reside in or near eleven cities: Atlanta, Houston, Dallas, Miami, Los Angeles, Phoenix, New Orleans, Tampa, Orlando, Jacksonville, and Chicago. All of these are among the cities with the highest populations of Retired NFL Football Players. The median time from request to clinical neuropsychology appointments offered among Retired NFL Football Players with no active appointments in these cities ranges from five days in Houston to 41 days in New Orleans, with an average of 15 days. In all such cases, the BAP Administrator continues to work with Qualified BAP Providers, and Retired NFL

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[3] Note that these percentages may not add up to exactly 100% due to rounding.

Football Players or their attorneys, to ensure Retired NFL Football Players receive appointments that meet their preference for location, provider, and schedule, while accommodating the Qualified BAP Providers' schedules.

15.   Finally, 30 (0.4%) Retired NFL Football Players have requested baseline assessment examinations but have not yet had appointments scheduled or offered to them. Table 3 summarizes Retired NFL Football Players with requests and appointments scheduled through January 9, 2023.

Table 3. Summary of Requests and Scheduling Activity to Date

Status	Number	% of Requested[4]
Players requesting participation in BAP	7,621	100.0%
Players offered one or more appointments	7,591	99.6%
Players with two appointments currently scheduled	6,269	82.1%
Players with one appointment currently scheduled	519	6.8%
Players with appointments previously offered but none attended or currently scheduled (active)	710	9.3%
Players with appointments previously offered but none attended or currently scheduled (inactive)	103	1.4%
Players waiting for their first offered appointments	30	0.4%

Note: Indented rows are subsets of rows above.

Providing Reports from Baseline Assessment Examinations

16.   As part of its efforts to ensure prompt and accurate production of medical records and reports, the BAP Administrator conducts training sessions and offers guidance materials to each Qualified BAP Provider. The BAP Administrator is in regular contact with Qualified BAP Providers as questions or issues arise that may slow the production of medical records and reports. To provide incentives for Qualified BAP Providers to submit medical records and reports in a timely manner, the BAP Administrator included a provision in all its Qualified BAP Provider

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[4] Note that these percentages may not add up to exactly 100% due to rounding.

contracts that makes provider payment contingent on the Qualified BAP Providers submitting such documents.

17.   Since inception of the BAP, the BAP Administrator has received BAP-generated medical records and reports from at least one specialist (neurologist or clinical neuropsychologist) for 6,657 Retired NFL Football Players, comprised of reports from both specialists for 6,157 Retired NFL Football Players, and records from one specialist for 500 Retired NFL Football Players.

18.   After receiving the medical records and reports, the BAP Administrator reviews them for accuracy and completion, particularly against the requirements of the Settlement Agreement.

19.   When either the records or reports are incomplete, the BAP Administrator works with the Qualified BAP Provider to ensure completion. The most common reasons for such follow-ups with providers include:

     a. Failure to clearly state what, if any, Neurocognitive Impairment level the Retired NFL Football Player qualified for, as defined by the Settlement Agreement;

     b. Omission of references to corroborating evidence, as required for diagnosing Level 1.5 Neurocognitive Impairment or Level 2 Neurocognitive Impairment under the Settlement;

     c. Failure to adequately address test validity and/or functional impairment, two topics required to be reported by clinical neuropsychologists as part of their reports; and

d. Failure to meet other administrative requirements as articulated in the Clinician's Interpretation Guide promulgated pursuant to Exhibit A-2 of the Settlement Agreement.

20. Of the 6,157 Retired NFL Football Players for whom both reports have been submitted by Qualified BAP Providers, the BAP Administrator has completed its review process for 6,069. Table 4 shows the status for Retired NFL Football Players whose reports have been submitted to the BAP Administrator as of January 9, 2023.

Table 4. BAP Report Review Status

Status	Number	% of Players with Both Appts Attended[5]
Players who have attended both appointments	6,207	100.0%
Players with both reports submitted to the BAP Administrator	6,157	99.2%
Players with review completed	6,069	97.8%
Players with reports awaiting initial review	7	0.5%
Players with reports in follow up status with Qualified BAP Providers or awaiting application of the New Method	55	0.8%
Players with reports undergoing review by the Appeals Advisory Panel due to conflicting diagnoses between Qualified BAP Providers (per the Settlement Agreement)	9	0.1%

Note: Indented rows are subsets of rows above.

21. As of January 9, 2023, BAP examinations have resulted in 261 diagnoses of Level 1 Neurocognitive Impairment, 230 diagnoses of Level 1.5 Neurocognitive Impairment, and 149

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[5] Note that these percentages may not add up to exactly 100% due to rounding.

diagnoses of Level 2 Neurocognitive Impairment, with 5,436 Retired NFL Football Players

receiving no diagnosis.[6]

BAP Supplemental Benefits

22.   Under the Settlement Agreement, a Retired NFL Football Player diagnosed with

Level 1 Neurocognitive Impairment is eligible to receive BAP Supplemental Benefits related to

the Retired NFL Football Player's impairment in the form of medical treatment, counseling, and/or

examination by Qualified BAP Providers, including pharmaceuticals if medically appropriate and

prescribed by a Qualified BAP Provider.

23.   The Settlement Agreement required Class Counsel and Counsel for the NFL

Parties, in consultation with the BAP Administrator, to establish the maximum per-player benefit

under the BAP Supplemental Benefits on the first anniversary of the commencement of the BAP.

Accordingly, on June 6, 2018 (the first anniversary of the commencement of the BAP), Class

Counsel and Counsel for the NFL Parties, in consultation with the BAP Administrator, established

a $35,000 maximum per-player benefit under the BAP Supplemental Benefits.

24.   In April 2022, the Claims Administrator notified 246 Retired NFL Football Players

of a diagnosis of Level 1 Neurocognitive Impairment due to the Automatic Retrospective

Rescoring facilitated by the Claims Administrator under the supervision of the Appeals Advisory

Panel Consultants, thus making those Retired NFL Football Players newly eligible for BAP

Supplemental Benefits. In response, the BAP Administrator contacted those Retired NFL Football

Players or their attorneys to enroll them in the BAP Supplemental Benefits. In addition, the BAP

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[6] These totals reflect the original diagnoses made through the BAP and not the result of changes to Retired NFL
Football Players' BAP diagnoses as a result of the Automatic Retrospective Rescoring facilitated by the Claims
Administrator under the supervision of the Appeals Advisory Panel Consultants, which is the subject of a separate
report by the Claims Administrator.

Administrator analyzed historical BAP Supplemental Benefits costs to determine if the maximum per-player benefit should be adjusted based on the influx of newly eligible Retired NFL Football Players. This analysis showed that the average participant in the BAP Supplemental Benefits has incurred $3,343 in covered expenses to date, with only two Retired NFL Football Players participating in the BAP Supplemental Benefits having incurred covered expenses exceeding $20,000. As a result, the BAP Administrator recommends that the maximum per-player benefit remain at $35,000.

Respectfully submitted,

BAP ADMINISTRATOR

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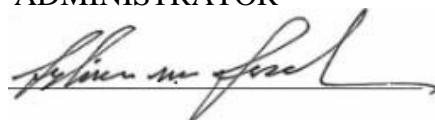
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